

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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VINCIENT JAMES WALTER
 WHATLEY, IV,

Plaintiff,

v.

CITY OF HENDERSON, *et al.*,

Defendants.

2:07-cv-01696-RLH-LRL

FINDINGS AND RECOMMENDATION

On December 19, 2007, plaintiff submitted an Application to Proceed *In Forma Pauperis* and a Complaint pursuant to 42 U.S.C. § 1983 (#1). In its January 8, 2008 Order (#2), the court determined that the application was incomplete. *Id.* at 1. Specifically, plaintiff did not provide the date of his last employment and the amount of the salary and wages per month which he received. *Id.* Plaintiff also failed to indicate whether he received in the past twelve months any money from “any other sources.” *Id.* The court denied plaintiff’s application without prejudice. *Id.* at 2. The court ordered plaintiff to either submit a completed application in support of his request to proceed *in forma pauperis* on the form provided by the Clerk of the Court or pay the appropriate filing fee of \$350, not later than February 8, 2008. *Id.*

On April 7, 2008, plaintiff contacted the court telephonically and explained that he was unable to timely file a completed *in forma pauperis* application pursuant to the court’s Order (#2) due to his being hospitalized. The court admonished plaintiff that such ex parte communications with the court were prohibited by the Local Rules. Minute Order (#6) (citing LR 7-5, 7-6). The court ordered plaintiff to file all further correspondence with the Clerk’s Office or electronically. *Id.* Based on the telephone conversation and plaintiff’s February 28, 2008 letter (#5), however, the court found that plaintiff’s

1 failure to meet the applicable filing deadline was excusable. Minute Order (#6). Hence, the court
2 ordered that the time in which plaintiff was required to submit a completed application and affidavit in
3 support of his request to proceed *in forma pauperis* or pay the appropriate filing fee of \$350 was
4 extended to April 30, 2008. *Id.*

5 Almost fifteen (15) months have passed since the April 30, 2008 extended deadline for plaintiff
6 to file a completed application in support of his request to proceed *in forma pauperis* or pay the
7 appropriate filing fee of \$350. *See id.* The Clerk sent notice of the Minute Order (#6) to plaintiff on
8 three (3) occasions, twice to his most recently noticed address at 6161 W. Charleston, Las Vegas, NV,
9 and once to his originally noticed address at 1301 Sunset Rd., Las Vegas, NV. *See* Docket Nos. 7-9.
10 All mail has been returned as undeliverable. *See id.* Plaintiff has notified the court of no other address.
11 There is no evidence that the Clerk or the U.S. Postal Service negligently transmitted notice to plaintiff.
12 *See id.* Plaintiff has negligently allowed his mail to be sent to incorrect addresses. *See id.* To date,
13 plaintiff has not complied with the Minute Order (#6) within the allotted time period, and the time
14 allowed has expired.

15 IT IS THEREFORE RECOMMENDED that this case be dismissed with prejudice.

16 DATED this 27th day of July, 2009.

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19 **LAWRENCE R. LEAVITT**
UNITED STATES MAGISTRATE JUDGE